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ABSTRACT

In 1995, a report on the Washington state juvenile justice system found that minority youth were four times more likely than white youth to be sentenced to confinement. This report reviews aspects of disproportionality in Washington's juvenile justice system, summarizes inquiries by the Washington Advisory Committee to the U.S. Commission on Civil Rights, and highlights state and community efforts to address disproportionality. A section on demography and the extent of the problem examines Washington population data overall and for youth aged 10-17 by racial group; evidence of racial disproportionality in anecdotes, arrest rates, detention rates, prosecutor actions, and sentencing patterns; and positive and negative aspects of judicial discretion. Diversion programs--a legally mandated alternative to court for kids--have had some success, but problems include lack of funding, lack of community commitment, and family difficulties that prevent youth from appearing at required hearings. Statewide efforts on disproportionality include improved data collection and analysis on the juvenile justice system, state-mandated monitoring of juvenile disposition standards and the effectiveness and cultural relevance of rehabilitative services, and extensive diversity training for law enforcement and juvenile justice personnel. Successful community programs provide mentors to oversee alternatives to detention for African American youth, work to reinstate youth in school, and provide counseling and tutoring at drop-in centers. A multitribal organization advocates for American Indian youth in the juvenile justice system. Ongoing challenges include contributing factors in the child's environment, lack of funding, detentions due to failure to appear, lack of bilingual staff, and lack of prevention services. (SV)

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Dealing with Disproportionality in the Juvenile Justice System: The State of Washington's Approach

Washington Advisory Committee to the United States Commission on Civil Rights

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August 1997

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An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 3(d) of the Civil Rights Commission Amendments Act of 1994. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference that the Commission may hold within the State.

Dealing with Disproportionality in the Juvenile Justice System: The State of Washington's Approach

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KC 022824

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Letter of Transmittal

Washington Advisory Committee to the
U.S. Commission on Civil Rights

Members of the Commission
Mary Frances Berry, *Chairperson*
Cruz Reynoso, *Vice Chairperson*
Carl A. Anderson
Robert P. George
A. Leon Higginbotham, Jr.
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Russell G. Redenbaugh

Attached is a report of the Washington Advisory Committee based upon a forum convened by the Committee on June 9, 1995, in Seattle, Washington. In addition, interviews and other research were undertaken by members of the Committee and Commission staff.

The Advisory Committee proposed a study to gather information on efforts in the State to deal with disproportionality in the juvenile justice system. Disproportionality refers to the overrepresentation of minorities in the justice system in relation to their percentage of the overall population.

The Washington State Legislature passed legislation to deal with disproportionality which set in motion constructive governmental and community responses. The specific reactions of the State's counties vary, but the Advisory Committee found the Reaching Back/Giving Back project in Seattle generated by planning, input, and energy of the African American community and officials of King County to be a creative and innovative approach to dealing with juvenile justice.

The Advisory Committee believes that this document will be informative for those jurisdictions around the Nation that may be experiencing similar concerns about overrepresentation of minorities in the juvenile justice system. The Advisory Committee is hopeful that the report will generate interest in creative ideas and approaches to deal with disproportionality in juvenile justice.

The Advisory Committee offers the report as part of its function to advise the Commission of civil rights issues of concern in Washington and to add to the Commission's body of research on such matters. The report was approved for submission by the Advisory Committee, 13 for, 5 other, including newly appointed members.

On behalf of the Advisory Committee,

William A. Wassmuth

William A. Wassmuth, *Chairperson*
Washington Advisory Committee

Washington Advisory Committee

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Toppenish

Dorothy Marie Webster*
Spokane

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* No longer a member of the Advisory Committee.
+ Became a member following the study.

Acknowledgments

The Washington Advisory Committee wishes to thank staff of the Commission's Western Regional Office in Los Angeles for its assistance in the preparation of this report. The project was the principal assignment of Thomas V. Pilla with assistance and support from Grace Hernandez and Priscilla-Lee Herring. The report was written by Thomas V. Pilla. Editorial assistance and preparation of the report for publication were provided by Gloria Hong. The project was carried out under the overall supervision of Philip Montez, Director, Western Regional Office.

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I. Introduction

Although the juvenile justice system has evolved through time, minority communities have alleged that it is their youth who continue to suffer the brunt of criminal arrests and convictions. For example, in 1990, nearly one in four young African American men in the United States was incarcerated or on probation or parole.[1] According to a study released by the Center on Juvenile and Criminal Justice[2], African Americans in California were found to be imprisoned at rates that are disproportionate not only to their representation in the population but even to their arrest rates.

Concern regarding the overrepresentation of minority youth[3] in Washington's juvenile justice system prompted the 1991 legislature to enact a law that mandated an independent study of this issue.[4] According to the report released January 12, 1995, by the Juvenile Justice Racial Disproportionality Work Group, a disproportionate number of minority youth are processed by the State's juvenile justice system.[5] The report noted that minority youth are four times more likely than white youth to be sentenced to confinement. Community spokespersons have alleged that such a finding is not new and that minority youth have long been disproportionally represented in facilities for youthful offenders.

Disproportionality is the term used to describe the overrepresentation of minority youth in the administration of justice relative to the percentage that would be expected, given their actual numbers in the general population.[6] In 1990, minority youth represented 23 percent of the total population in King County and comprised 53 percent of the total youth prosecuted for offenses in 1991; approximately 47 percent of those prosecuted were white, 38 percent African American, 7 percent Asian/Pacific Islander, 3 percent Native American, and 3 percent Hispanic.[7] In a study on the treatment of minorities in the criminal justice system released in November 1995 by the

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1 Marc Mauer, "Young Black Men and the Criminal Justice System: A Growing National Problem," The Sentencing Project, Washington, DC, 1990.

2 Vincent Schiraldi, Sue Kuyper, and Sharen Hewitt, "Young African Americans and the Criminal Justice System in California: Five Years Later," Center on Juvenile and Criminal Justice, San Francisco, CA, February 1996 (hereafter cited as Center On Juvenile and Criminal Justice study).

3 According to Washington State law, a juvenile, youth, or child means any individual who is under the chronological age of 18 years (RCW 13.04.011). Urban Policy Research, "A Comparison Of Major Features Of the Juvenile Justice System And The Criminal Justice System in Washington State, a report prepared for the Governor's Juvenile Justice Advisory Committee," WA, December 1993, p. 6 (hereafter cited as Urban Policy Research comparison report).

4 Office of the Administrator for the Courts, Juvenile Justice Racial Disproportionality Work Group, *Report to the Washington State Legislature*, Dec. 1, 1994 (hereafter cited as Disproportionality Work Group Report). In 1993, the State Legislature enacted Engrossed Substitute House Bill 1966, a law designed to address the issue of racial and ethnic disproportionality in the administration of juvenile justice.

5 Juvenile Justice Racial Disproportionality Work Group, press release, Jan. 9, 1995, Seattle, WA.

6 George S. Bridges, Ph.D. and Rodney L. Engen, "Racial Disproportionality in the Juvenile Justice System, King County, Final Report," 1993, p. 8 (hereafter cited as Bridges and Engen). The research reported in the document was supported with funds from the Governor's Juvenile Justice Advisory Committee, the Department of Youth Services in King County, the Office of the King County Prosecutor and the King County Superior Court. Bridges and Engen, p. iii.

7 Bridges and Engen, p. 12.

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Washington State Minority and Justice Commission, researchers concluded that if you are African American, Native American, or Hispanic and run into trouble with the law in King County, you are more likely to be criminally prosecuted, face higher bail, and end up in prison serving more time than your white counterparts.[8] The statistics represent the simple outcome of disproportionality; however, James Kelly, executive director, Washington State Commission on African American Affairs told the Advisory Committee that "dealing with disproportionality is a very complex, controversial, and critical issue."[9] The issue is critical because the number of youth incarcerated in the Nation has increased dramatically, thus increasing the numbers of minority youth in juvenile facilities.

Admissions to juvenile facilities have risen since 1984, reaching a record high of nearly 690,000 in 1990.[10] Kelly believed that about 56 to 60 percent of those were youth of color.[11] Actually, confined minority juveniles rose from 53 percent to 63 percent, with the largest increases occurring among blacks (from 37 percent to 44 percent) and Hispanics (from 13 percent to 17 percent).[12] In the State of Washington, for 1990, there were 45,535 arrests of juveniles,[13] and 18,662 youths were held in detention facilities.[14] Kelly added that close to 38 percent of these children in the juvenile justice system were children of color even though they represented only 13 percent of the population.[15] Dr. George Bridges, professor of sociology, University of Washington, reported that in 1991, 13,146 cases involving youth accused of crime were referred to the King County Department of Youth Services.[16] Of these cases, 54 percent were white, 31 percent African American, 7 percent Asian/Pacific Islander, 3 percent Hispanic, and 2 percent Native American.[17]

The independent study mandated by the legislature was conducted by Professor Bridges and his associates (Bridges and Engen) and completed in January 1993. The major finding of the study was that youth of color were significantly more likely than white youth to be referred to the juvenile court for serious offenses, to be charged with crimes, to be adjudicated guilty, and to be sentenced to terms of confinement in State correctional facilities.[18]

The findings initiated various actions by officials who dealt with juvenile justice on a daily basis. According to Superior Court Judge Bobbe J. Bridge, King County, a statewide task force was established in 1992, and many efforts are underway to deal with the issue of disproportionality.[19] A working group was established in King County

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8 Pat Novotny, "Race and the Prosecuting Attorney: A Progress Report. Complex Set of Factors Lead to Disparities." *Bar Bulletin*, vol. 14, issue 4, (December 1995), King County Bar Association (hereafter cited as Bar Bulletin).

9 Unless otherwise noted, all quotes and statements in this report are from the proceedings transcript, which is on file in the Commission's Western Regional Office in Los Angeles, California. United States Commission on Civil Rights, Washington Advisory Committee, Transcript of Proceedings, Seattle, WA, June 9, 1995 (hereafter cited as Transcript).

10 Dale G. Parent, "Conditions of Confinement," *Juvenile Justice*, Spring/Summer, 1993, vol. 1, no. 1, p. 3 (hereafter cited as Parent).

11 Transcript, p. 181.

12 Parent, p. 3.

13 Mark Ezell, "Washington State's Juvenile Justice System." Washington State Institute for Public Policy, Olympia, WA, February 1992, p. 4 (hereafter cited as Ezell).

14 Ezell, p. 5.

15 Transcript, p. 182.

16 Bridges and Engen, p. 9.

17 Bridges and Engen, p. 9.

18 Bridges and Engen, p. 6.

to develop standards and guidelines for the prosecution of juvenile offenders, review any racial disproportionality in diversion and detention facilities, and to make recommendations to reduce racial disproportionality.[20] These efforts have met with varying degrees of success, but highlight one State's recognition, study, and implementation of actions dealing with disproportionality. The Washington State Advisory Committee to the United States Commission on Civil Rights believed it was important to present these efforts.

State Advisory Committee

A major duty of the U.S. Commission on Civil Rights is to "study and collect information relating to discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice."[21] The Commission has established at least one advisory committee in each State and the District of Columbia to assist in its factfinding function and to advise it of civil rights issues of importance.[22] Through time, the Commission and its Advisory Committees have studied and reported upon various aspects of the administration of justice in the Nation.

The Washington Advisory Committee to the U.S. Commission on Civil Rights met on March 30, 1994, to discuss civil rights issues of concern, including youth violence, the impact of State legislation on judicial discretion, youth being tried as adults, and disproportionate ethnic representation in the criminal justice system.[23] Members requested that individuals who could address the issue of juvenile justice be invited to the next meeting.

At the meeting of May 18, 1994, five individuals involved in juvenile justice briefed the Advisory Committee.[24] Tony Orange, acting executive director, Central Area Youth Association, told the Advisory Committee that while African American youth represented only 7 percent of the population in King County, they composed 45 percent of all pretrial detention youth.[25] The Advisory Committee believed this issue to have civil rights implications and requested that additional information on the issue of disproportionality be presented at its next meeting.

At its meeting of September 21, 1994, the Advisory Committee invited the Honorable Bobbe J. Bridge, judge of the Superior Court of King County, and Dick Carlson, then acting director, King County Department of Youth Services, to address the issue of disproportionality in the juvenile justice system.[26] Judge Bridge noted that the statewide task force was appointed in 1992 with the authority to review disproportionality and generate strategies to deal with the issue.[27] Mr. Carlson noted that problems identified

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19 Washington State Advisory Committee, Meeting of Sept. 21, 1994, Minutes, Sept. 26, 1994, p. 3 (hereafter cited as Sept. minutes).

20 Transcript, p. 11.

21 42 U.S.C. § 1975c(a)(2) (1988).

22 45 C.F.R. §§ 703.2 and 703.3 (1995).

23 Washington State Advisory Committee, Meeting of Mar. 30, 1994, Minutes, Apr. 5, 1994 (hereafter cited as March minutes).

24 Washington State Advisory Committee, Meeting of May 18, 1994, Minutes, May 23, 1994 (hereafter cited as May minutes). Representatives who briefed the Advisory Committee at this meeting included: Tony Orange, former commission assistant, Seattle Human Rights Commission and acting executive director, Central Area Youth Association; George Yeannakis, attorney-at-law, Law Offices of the Society of Counsel; Simmie Baer, supervising attorney, juvenile division, Law Offices of the Public Defender; Christy Hedman, director, Washington Defender Association; and, Dan Satterberg, chief of staff, King County Office of the Prosecuting Attorney.

25 May minutes.

26 September minutes.

27 September minutes.

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included disproportionate arrest and referral, a disparity in detention and lack of referrals, truancy, failure of youth of color to meet court appearance dates which imposed the issuance of warrants, youth of color were less likely to complete their diversion agreements, youth of color were prosecuted at higher rates than nonminorities, and a higher proportion were sent to institutions.[28] Both offered comments on the many efforts that had developed statewide and in King County to deal with disproportionality.

As a result of the information provided at these three meetings the Advisory Committee believed that significant efforts were being undertaken to deal with disproportionality and the results of these activities needed to be highlighted for areas of the Nation experiencing similar concerns. The Advisory Committee "determined that it should conduct an educational forum on statewide and King County activities dealing with disproportionality in the administration of justice for youth."[29] The forum was held June 9, 1995, in Seattle. Twenty-one participants appeared before the Advisory Committee to present their views, opinions, perceptions, and facts on the efforts to deal with disproportionality in the juvenile justice system.[30] This report summarizes the Advisory Committee's inquiries.

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28 September minutes.

29 At its meeting of Sept. 21, 1994, the Washington Advisory Committee proposed and passed a motion to conduct an educational forum on Statewide and King County activities dealing with disproportionality. All eight members in attendance concurred in the decision. September minutes, p. 3.

30 Participants included: Honorable Norma Huggins, Judge, King County Superior Court; Michael Curtis, court services, Office of the Administrator for the Courts, State of Washington; Dick Carlson, operations manager, King County Department of Youth Services; George S. Bridges, Ph.D., associate professor, Department of Sociology, University of Washington; Ligia Farfan, project coordinator, minority juvenile justice improvement project, I-Wa-Sil Youth Program, United Indians of All Tribes Foundation; Dave Akimoto, executive director, Atlantic Street Center; Glenda Tanner, community representative; Harriet Walden, cofounder, Mothers Against Police Harassment; Ed Crawford, chief, Kent Police Department; Honorable Margaret Pageler, member, Seattle City Council; James Kelly, executive director, Washington State Commission on African American Affairs; Sadikifu Akina James, manager, Community Services Division, King County; Greg Hubbard, deputy prosecuting attorney, Kitsap County; Harold Delia, juvenile court administrator, Kitsap County; Susan Waild, program manager, Conference Committee Diversion Program, King County Superior Court; Steve Johnston, juvenile court administrator, Pierce County Juvenile Court; Gerard "Sid" Sidorowicz, assistant secretary, Juvenile Rehabilitation Administration, DSHS; Dan T. Satterberg, chief of staff, Office of the King County Prosecuting Attorney; Simmie A. Baer, supervising attorney, juvenile division, Law Offices of the Public Defender; Representative Ida Ballasiotes, Washington State Legislature; Andy De Los Angeles, tribal chairman, Snoqualmie Indian Tribe.

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II. Background

Demographics

According to the Bureau of the Census, U.S. Department of Commerce, Washington State had a total population of 4,132,353 in 1980 and 4,866,692 in 1990, an increase of 21.1 percent. The 1990 population included: 4,308,937 white (88.5 percent); 214,570 Hispanic origin (4.4 percent); 210,958 Asian or Pacific Islanders (4.3 percent); 149,801 black (3.1 percent); 81,483 American Indian, Eskimo, or Aleut (1.7 percent); and 115,514 other race (2.8 percent). The Washington State Community, Trade and Economic Development Office estimated a total population of 5,429,900 in 1995 with 1,666,034 under the age of 20.[1] It was estimated that since the 1990 census, the under-20 age group had increased by 186,888.[2] The Washington State Office of Financial Management estimated that in calendar year 1995, 10- to 17-year-olds numbered 627,255 in Washington.[3] According to census data, between 1980 and 1990, the State's Native American population had increased by 34.0 percent, Asian and Pacific Islanders increased 91.7 percent, African Americans by 41.9 percent, Hispanic origin by 78.8 percent, others by 50.9 percent, and white by 14.0 percent.

With a growing minority population, State officials and community organizations and individuals involved in working with youth were concerned about the allegations of disproportionality in the juvenile justice system. Professor Bridges noted that about 20 States across the Nation have looked at this problem and the findings are very consistent across States.[4]

Extent of the Problem

According to statistics supplied by the U.S. Department of Justice, from 1985 through 1994, juvenile arrests increased 150 percent for murder, 103 percent for weapons law violations, 97 percent for aggravated assault, and 57 percent for robbery.[5] Although violent crimes[6] committed by youth age 10-17 decreased nationally in 1995, these rates remain high. The Federal Bureau of Investigation (FBI) reported a 2.9 percent decrease in 1995 in arrests of violent offenders under age 17.[7] The violent crime arrest rate was 527.4 youths per 100,000 in 1994 and 511.9 in 1995. The corresponding murder arrest rate was

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1 Tracy Berry, Washington State Community, Trade and Economic Development, telephone interview, Sept. 17, 1996 (hereafter cited as Berry telephone interview). Ms. Berry also telefaxed copies of eight relevant population tables from which appropriate data was extrapolated.

2 Berry telephone interview.

3 Washington State Office of Financial Management, "Intercensal and Postcensal Estimates of Population by Age and Sex, State of Washington: 1980-1995," December 1995 (hereafter cited as Intercensal Estimates). For comparison, in 1984 there were 506,925 10 to 17 year olds in the State.

4 Unless otherwise noted, all quotes and statements in this report are from the proceedings transcript, which is on file in the Commission's Western Regional Office in Los Angeles, CA. United States Commission on Civil Rights, Washington Advisory Committee, Transcript of Proceedings, Seattle, WA, June 9, 1995 (hereafter cited as Transcript). Transcript, p. 67.

5 "Teenage Time Bombs," *U.S. News & World Report*, Mar. 25, 1996, pp. 28, 37, 38. The basic data was taken from U.S. Department of Justice information and interpreted by staff of *U.S. News & World Report*.

6 Violent crimes include murder, forcible rape, robbery, and aggravated assault.

7 Robert L. Jackson, "Violent Crimes by Juveniles Down First Time in 7 Years," *Los Angeles Times*, (August 1996), p. A9 (hereafter cited as Jackson).

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14.5 youths per 100,000 in 1993, 13.2 youths in 1994, and 11.2 youths in 1995.[8]

Dan Satterberg, chief of staff, Office of the King County Prosecuting Attorney, told the Advisory Committee that in 1993 his office filed more murder cases in juvenile court than it had in the 3 prior years combined and repeated that number in 1994.[9] According to research by the Washington State Institute for Public Policy, "the rate of juvenile violence declined in Washington in 1995, but remained high by historical standards."[10] The researchers found that "from 1984 to 1995, the rate of juvenile convictions for violent felonies increased 152 percent: from 1.03 convictions per thousand youth under age 18 in 1984 to 2.59 per thousand youth in 1995."[11] Representative Ida Ballasiotes, chair of the Washington State Legislature's House Corrections Committee, agreed that "we are seeing more violent crimes,"[12] adding that it costs about $55,000 per year to keep a child in the juvenile justice system.

Numerous participants at the Advisory Committee's forum noted the increase in the numbers of juveniles being incarcerated in Washington. Professor Bridges stated that there are 30,000 to 40,000 children referred through the juvenile court in the State every year, and most of the offenses are relatively trivial. He said, "We are not talking about serious criminal offenders in detention populations."[13] Still, Bridges added, children of color are prosecuted at higher rates than white children even after you adjust for differences in the severity of the crimes, the backgrounds of the children, and other factors that might contribute to prosecution decisions.[14] He noted that in King County, on the average 9 percent of white children are prosecuted, whereas 19 percent of youth of color, with the identical crime and criminal history, are prosecuted. Although King County has prosecution guidelines that structure the discretion of prosecutors and how they make their decisions,[15] a significant finding of the Bridges & Engen study was that white youth get their cases dismissed more often than black youth.[16] For example, among youth prosecuted for offenses in 1991, youth of color comprised 53 percent of the total,[17] and 54 percent of the 13,146 cases referred to the King County Department of Youth Services (DYS) were white, 31 percent African American, 7 percent Asian and Pacific Islander, 3 percent Hispanic, and 2 percent Native American.[18] Glenda Tanner, a community representative, believed the community needed to be more aware of the extent of the problem.[19]

The Bridges & Engen study found anecdotal evidence to suggest that law enforcement is somewhat selective in arresting people for crime, which may contribute to disproportionality.[20] Ligia Farfan, a representative of I-Wa-Sil[21], a

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8 Jackson.

9 Transcript, p. 252.

10 Washington State Institute for Public Policy, Research Brief, "The Rate of Juvenile Violence in Washington State Declined in 1995, but Remains High." Olympia, WA (October 1996) (hereafter cited as Institute Research Brief).

11 Institute Research Brief.

12 Transcript, p. 273.

13 Transcript, p. 76.

14 Transcript, p. 83.

15 Transcript, p. 84.

16 Transcript, p. 88.

17 Bridges and Engen, p. 12.

18 Bridges and Engen, p. 9.

19 Transcript, p. 126.

program that works in Seattle with approximately 130 to 150 Native American and Latino youth a year, stated that young people distrust police officers because they believe that the officers are there only to harass them.[22] Community members believe that if a minority youth is arrested, he is more likely to be detained.[23] David Akimoto of the Atlantic Street Center said that the Asian and Pacific Islander community is the largest racial minority in King County, numbering approximately 118,000 or 12 percent of the population, and statewide the number is 240,000 or about 4 percent.[24] The Asian population in the King County Department of Youth Services is 12 percent.[25] Andy de Los Angeles, tribal chairman, Snoqualmie Indian Tribe, wrote, "one alarming statistic is the ratio between the census of the Indian and Alaska Native population versus Indian and Alaska Native children involved with the juvenile justice system."[26] He alleged that Indian and Alaska Natives comprised 1.7 percent of the State's population in 1990 and that their children represented 2 percent of all those in the system in 1991 and 3.45 percent in 1995.[27]

Statistics from the Juvenile Justice Wide Area Network noted 5,048 detentions in 1994, including 615 Asian (12.18 percent), 1,855 African American (36.74 percent), 217 Hispanic (4.29 percent), 165 American Indian (3.26 percent), 2,122 Caucasian (42.03 percent), 66 other (1.30 percent), 2 unknown (.03 percent), and 2,405 detentions for the first 6 months of 1995, including 287 Asian (11.93 percent), 779 African American (32.39 percent), 103 Hispanic (4.28 percent), 83 American Indian (3.45 percent), 1,116 Caucasian (46.40 percent), 30 other (1.24 percent), and 1 unknown (.04 percent).[28]

In 1990 and 1991, 64 percent of all gang-related incidents were in African American communities; only 16 to 20 percent of the incidents involved Asian and Pacific Islander young people. For the years 1992–1995, the number of gang-related incidents for African American youth and young adults has stabilized while the number of incidents involving Asian and Pacific Islanders has grown dramatically.[29] Akimoto reported that the Seattle Police Gang Unit handled 354 gang-related cases in the African American community in 1991 and 347 in 1993. The unit also handled 89 gang-related cases in the Asian and Pacific Islander community in 1991 and 355 in 1993.[30]

Sadikifu Akina-James, manager, Community Services Division, King County, noted that in 1990, close to 38 percent of those in the juvenile justice system were children of color, compared to their population of only 13 percent. In 1994, youth

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20 Transcript, p. 91.

21 According to the representative, the purpose of the I-Wa-Sil program is to foster individual group changes in attitudes, values, and behavior leading to cessation of illegal and abusive activities and toward positive reintegration in family, school, and neighborhood communities. Transcript, p. 102.

22 Transcript, p. 103.

23 Transcript, p. 103.

24 Transcript, p. 106.

25 Transcript, p. 107.

26 Andy de Los Angeles, Tribal chairman, Snoqualmie Indian Tribe, telefax to Thomas V. Pilla, Western Regional Office, U.S. Commission on Civil Rights, Nov. 6, 1996 (hereafter cited as de Los Angeles telefax).

27 de Los Angeles telefax.

28 Juvenile Rehabilitation Administration, Department of Social and Health Services, State of Washington, "The Juvenile Justice Wide Area Network Detention Statistics Summary Report for 1994 and 1995 Detentions," June 8, 1995 (hereafter cited as JJ-WAN).

29 Transcript, p. 108.

30 Transcript, p. 108.

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of color constituted about 40 to 46 percent of those in the juvenile justice system.[31] Dick Carlson, operations manager, Department of Youth Services, King County, told the Advisory Committee that 10 to 15 years ago you would have expected to see around 25 to 30 percent of the juvenile population being African American. Now it bounces back and forth between 35 and 40 percent, occasionally going over 40 percent.[32]

In its 1994–1995 annual report to the Juvenile Justice Standards Commission, the King County Department of Youth Services noted a 14 percent increase in juvenile referrals from 1990 to 1994.[33] In 1994, Caucasian youth were 57 percent of all referrals, African American youth were 25 percent, Asian youth were 11 percent, Hispanic youth were 3 percent, Native American youth were 2 percent, and young women accounted for 27 percent.[34]

King County was not the only Washington county to note an increase. Greg Hubbard, deputy prosecuting attorney in Kitsap County, said, "we have about a 24-bed detention facility and 40 juveniles were in there [in June 1995] and there was a disproportionate number of youth of color"[35] but few Native Americans. Hubbard believed that could be attributed to the fact that the Suquamish Nation is at the northeast part of Kitsap County and it has its own juvenile court system on the reservation.[36] Steve Johnston, juvenile court administrator of Pierce County, added that "kids are coming to us at record levels and institutions [in his county] are at their 140-bed capacity."[37]

Sid Sidorowicz, assistant secretary, Juvenile Rehabilitation Administration, Department of Social and Health Services (DSHS), noted that State facilities were housing about 1,400 youth in their institutions, had about 850 youth out on parole, and will probably have over 2,000 youth committed in fiscal year 1996. He noted that the State operates six institutions and seven group homes for juveniles and contracts for another 220 group home beds.[38] Three or four of the State institutions are operating at 140 percent capacity and overall the State system is about 120 percent over capacity.[39] Overrepresentation of minorities is also evident in the State system for juveniles. Sidorowicz noted that about 50 percent of the youth committed are youth of color[40] and 20 percent of these are African American.[41]

The impact of these high levels of detention for all youth is believed by some to add to disproportionality. Simmie Baer, supervising attorney, Juvenile Division, Law Offices of the Public Defender in King County, said, "the number of children in detention has reached an all-time high and I am sure that the disproportionality is at the same level."[42] She added that children of color are detained more than other children before their case is resolved and that has not changed.[43]

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31 Transcript, p. 182.

32 Transcript, p. 59.

33 King County Department of Youth Services, *Report to Juvenile Justice Standards Commission: Disproportionality in the King County Juvenile Justice System*, Seattle, WA, Aug. 24, 1995 (hereafter cited as King County Report to JJSC).

34 King County Report to JJSC.

35 Transcript, p. 199.

36 Transcript, p. 207.

37 Transcript, p. 217.

38 Transcript, p. 235.

39 Transcript, p. 236.

40 Transcript, p. 236.

41 Transcript, p. 239.

42 Transcript, p. 258.

According to Professor Bridges, disproportionality or overrepresentation, given general numbers of the population, has four major contributing factors: generally, children of color come from disadvantaged backgrounds, prejudicial treatment of minorities by officials in the juvenile justice system and law enforcement agencies, inadvertent biases in court rules and policies, and inadvertent biases in informal rules and practices.[44] Although concerned about all four factors, the Advisory Committee believed it was within the Commission's mandate to focus on the allegation of prejudicial treatment of minorities by juvenile justice officials and law enforcement agencies that led to disproportionality in the system.

The juvenile justice system involves a series of events that may occur, beginning with an arrest for an alleged transgression, a determination of whether detention is necessary, prosecution, court appearances, sentencing, or diversion to an appropriate program.

Arrest Discretion

Some spokespersons alleged that law enforcement officers have a great impact on the system, based upon their discretion in the field. Simply put, upon encountering a juvenile offender, law enforcement officers must decide whether to take the juvenile into custody[45] or release. Frequent harassment of minority youth was alleged by many to be a precursor to arrest. According to Simmie Baer, the Bridges study identified exactly where the disproportionality occurs in the system, specifically with the police and she has not seen any change.[46] She said:

> We sit down with groups of predominantly young African American men and fill out police harassment forms[47] [and added], at high schools and middle schools I visit, all the kids of color say, is it legal for the police to do this? Is it okay for the police to do this to me? The police said this to me, the police took me here, Is this okay? No, that is not okay![48]

Harriet Walden, cofounder of Mothers Against Police Harassment, told the Advisory Committee that in the city of Redmond, Hispanic and African American youth have had their photographs taken since 1991 and are filed in a gang file, but all these children are not gang members.[49] She also related the following personal story:

> One of my sons was riding in a car which broke down on a bridge. An officer with the Mercer Island Police Department telephoned me to say that he had picked up my son because the car had broken down. He asked, what did I want to do? I told him to keep him at the station and I would pick him up. That is an example of discretion that is not usually afforded [black] children in Seattle.[50]

She added that another time an officer stopped a car for a minor infraction. The car had four black youth in it. In court, the officer was asked, "Why did you stop this car?" He said, "Oh, because I wanted to." The kids call this "jackin" because they get stopped all the time.[51] Chief Ed Crawford, Kent Police Department, said, "I am not suggesting that the police have totally clean hands, they make mistakes, get mad, vindictive."[52] In its 1995–1996 annual report, the Regional Law Safety and Justice Committee of King

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43 Transcript, p. 260.

44 Transcript, pp. 66–70.

45 Ezell, p. 4.

46 Transcript, p. 260.

47 Transcript, p. 260.

48 Transcript, p. 259.

49 Transcript, p. 140.

50 Transcript, pp. 142, 143.

51 Transcript, p. 143.

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County noted that only one of 15 law enforcement departments reported receiving any specific complaints of bias.[53] According to the report, in 1995 the Tukwila Police Department had 4,700 criminal arrests, conducted 11 internal affairs investigations, and only 2 complaints made reference to "race bias."[54]

Professor Bridges, who interviewed hundreds of people in the courts and police departments, does not believe disproportionality is the result of egregious acts of racism that some might allege. According to Bridges, the problems are far more complicated than that.[55]

Norma Huggins, judge, King County, told the Advisory Committee that in the hearings held by the working group on disproportionality, community representatives provided anecdotal information regarding everything from harassment by police officers to the way in which the law excludes parents from participation in the process that involves a child.[56] Walden stated that at statewide hearings held by the juvenile issues task force she served on "parents, whether rural or urban, were really frustrated with the system, alleging that there was no place for them to obtain assistance that they need for their children."[57]

Walden added that a lack of discretion by police officers usually leads to our kids being arrested.[58] Professor Bridges noted that children who are detained or held prior to any disposition of their case stand a much greater chance of being punished severely for their crime than children who are not, independent of the crime, their criminal history, or other background characteristics.[59] He believed communities needed to be aware of that whether or not they are concerned with fairness and justice among racial groups or fairness and justice among individuals.[60]

Walden stated that you cannot deal with disproportionality unless you talk about racism, which she alleges is the fundamental cause of disproportionality.[61] She suggested "unified standards of equality of practice in arrest and prosecution and equal standards throughout the State."[62] Greg Hubbard, deputy prosecutor, Juvenile Prosecutions, Kitsap County, said that the prosecutor's decision on what crime to charge has a big impact on whether the case is diverted or whether it is filed and processed for juvenile court.[63]

Ned Delmore, probation supervisor, Kitsap County, said the policies and procedures mean absolutely nothing unless they are enforced and held to a standard by people in the department.[64] Bridges reported that "it is subtle differences in treatment that contribute to the problem of disproportionality."[65]

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52 Transcript, p. 171.

53 Regional Law Safety and Justice Committee, Juvenile Justice Advisory Committee, *1995–1996 Annual Report*, Seattle, WA, 1996 (hereafter cited as Regional Annual Report). During 1995–96, the Committee surveyed the 35 County law enforcement departments regarding their process for receiving and acting on individual complaints of racial/ethnic bias or disproportionality in the delivery of services. Fifteen departments responded. Regional Annual Report.

54 Regional Annual Report.

55 Transcript, p. 78.

56 Transcript, p. 27.

57 Transcript, pp. 138–39.

58 Transcript, p. 142.

59 Transcript, p. 93.

60 Transcript, p. 95.

61 Transcript, p. 141.

62 Transcript, p. 150.

63 Transcript, p. 203.

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Detention

If the officer determines that the youth will be taken into custody, then the juvenile is transported to the detention center and screened for admission. There must be probable cause to believe that the juvenile has committed an offense.[66] Of the 18,662 youth held in detention facilities in 1990, 26.4 percent were minorities, and 16.8 percent were female.[67] A detention hearing is held within 72 hours (weekends/holidays excluded) from the time of filing the information or petition to determine whether continued detention is necessary.[68] In addition, juveniles being held in detention must have an adjudicatory hearing within 21–35 days of their arraignment.[69]

Determining if detention is necessary has not lessened the numbers of juveniles incarcerated nor decreased disproportionality. The average daily population in institution programs of the Juvenile Rehabilitation Administration continues to increase and a revised population forecast suggests steady growth through the remainder of the decade.[70] Steve Johnston stated that in 1994 Pierce County had the highest rate it had ever had and the institution was at its capacity of 140.[71] Ligia Farfan of I-Wa-Sil told the Advisory Committee that if a minority youth is arrested he or she is more likely to be detained.[72] She added that in 1988 Native American youth accounted for 5 percent of all those in detention. Native Americans account for approximately 1 percent of the population in King County. In 1991 Native American youth accounted for 3 percent of all those in detention.[73] Baer added:

> The Bridges study identified the problem in pre-adjudicatory detention, children of color are detained more than other children before their case is resolved. That has not changed. We have more kids in detention now than ever. They are starting to double bunk and that has never happened before.[74]

Some participants alleged an increase in the number of Asian youth in the system. Akimoto told the Advisory Committee that there are simply no services for the Asian, Spanish-speaking, and Native American communities, adding, there is something for the African American kids, but the gap is huge in terms of providing adequate alternatives.[75] Councilwoman Margaret Pageler suggested that kids of color, particularly if they are recent immigrants, have a different perspective about law enforcement.[76] Carlson attributed the increase in Asian youth arrested and detained to the increase in immigration of Southeast Asians, Pacific Islanders, Cambodians, Nationalist Chinese, and Thai.[77] He added:

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64 Transcript, p. 204.

65 Transcript, p. 78.

66 Ezell, p. 5.

67 Ezell, p. 5.

68 Ezell, p. 6.

69 Ezell, p. 10.

70 Washington State Department of Social and Health Services, Report from the Juvenile Rehabilitation Administration, "1994–95 The JRA Overview," p. 19 (hereafter cited as JRA Overview).

71 Transcript, p. 217.

72 Transcript, p. 103.

73 Transcript, p. 105.

74 Transcript, p. 260.

75 Transcript, p. 120.

76 Margaret Pageler is a member of the Seattle City Council, chaired the public safety committee, and served as a member of the regional law, safety, and justice committee. Transcript, p. 158.

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> Before 1985 you would not have seen anything like this [and] it probably would have been under 1 percent. It is two things, the raw number has increased due to the influx of immigration and take into account the immigration experience, you have first generation immigrants who do not speak the language and second generation kids being raised in this culture. The conflict between economic issues and that [cultural gap] contributes along with the increase in numbers.[78]

The Bridges study noted that "on average, youth of color were sentenced to confinement at a rate four times higher than whites."[79] For example, in 1991 youth of color represented 59 percent of all youth detained at any point prior to adjudication in DYS detention facilities.[80] In the same year, youth of color constituted 51 percent of the total population of youth adjudicated guilty in King County.[81] Carlson told the Advisory Committee that currently 50 percent of the kids detained at the King County facility have a warrant associated with their presentation, which means that even if the referral might not require their detention, the warrant requires it and many of those warrants are primarily related to failure to appear.[82]

Ned Delmore added that intake criteria are critical to disproportionality. In the past, police officers could drop any youth off at the Kitsap County detention center, no questions asked. Delmore suggested that will no longer happen because the county has developed policies and procedures.[83] He said, "We have developed and incorporated alternatives to detention because we do not believe every child needs to be locked up. You need to screen the child properly and find alternatives to detention, [for example,] electronic monitoring, which allows youth back in the community, in school, going to counseling and attempting to improve."[84]

According to Councilwoman Pageler, one of the things that contributes to disproportionality in the system (in King County) is the location of the juvenile justice facility in downtown Seattle.[85] She said:

> If you are a 3-member or 12-member police force in a southern section of the county or a county sheriff out in the far reaches of the county, the considerations you take to bring a juvenile into detention are going to be different than the considerations made by the Seattle police. Frequently those decisions are based on time and time priorities of the work site.[86]

She speculated that a child who may be equally dangerous in the suburbs might not be booked because of simple logistical issues.[87] She added that the regional committee is dealing with the need for a juvenile justice facility in the suburbs, but cautioned that it was probably 3 to 6 years

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77 Transcript, p. 51.

78 Transcript, p. 52.

79 Transcript, p. 103.

80 Bridges and Engen, p. 9.

81 Bridges and Engen, p. 13.

82 Transcript, p. 42.

83 Transcript, pp. 204–05. The protocol for detention of juveniles in Kitsap County specifies guidelines for medical clearance, mandatory detentions, criteria for detention, and decision to detain. Office of the Kitsap County Prosecuting Attorney, "Protocol, Detention of Juvenile in Kitsap County," Port Orchard, WA, May 22, 1995 (hereafter cited as Kitsap detention protocol).

84 Transcript, p. 205.

85 Pageler noted that although the juvenile facility is within Seattle city boundaries it is not within its jurisdiction because it is a county facility. Transcript, p. 154.

86 Transcript, p. 156.

87 Transcript, pp. 156–57.

down the line.[88] Chief Crawford agreed, noting that in Kent, the percentage of arrests by ethnic groups fluctuates but is very small, adding, "the youth center is 30 miles away from Kent; we do not want to go down there if we do not have to, so there are few trips to the center."[89]

Greg Hubbard added that officials of Kitsap County noticed that the percentage of youth of color incarcerated was substantial,[90] and as a consequence, Kitsap County established detention intake standards that are alleged to be race neutral. According to Hubbard, the issues surrounding detention have to do with danger to the community and likelihood of failure to appear, and Kitsap County established race-neutral detention intake standards with regard to those two issues that went into effect June 10, 1995,[91] the day after the Advisory Committee's forum.

Johnston noted that 60 percent of serious criminal activity referrals in Pierce County are kids of color. He added, "the vast majority of kids that come to us are from single parent homes at the poverty level with an educational average of 5 years behind grade level."[92] Kelly agreed that social factors contributed to the likelihood of African American youth being detained.[93] Akimoto noted that one-third of all Samoan American youth of high school age have been kicked out of school and suggested that it is no surprise that there is a serious problem with gang-related incidents within the Samoan community and an increase of Samoan youth in the juvenile court system.[94] Johnston noted that in Pierce County, kids of color are dropping out of school at about the same rate that they are being referred for criminal behavior.[95] Hubbard noted that school enrollment would be a factor for a judge considering whether to make a release decision.[96]

Many participants believed that the community should be concerned about what is going on prior to youth involvement with the juvenile court system. Akimoto alleged that there is disproportionality in the school and service delivery systems[97] and questioned if school is really an effective experience for a lot of these kids. Baer asked, "Who helps that child into school or tries to figure out if the child is a special education child and if the school is complying with the Individuals with Disabilities Education Act?"[98]

Baer alleged that the State does not take advantage of federally mandated programs that could have an impact, such as early periodic screening, diagnosis, and treatment under the medicaid statute. According to Baer, this Federal law mandates the States to identify every child who is eligible to receive medicaid benefits and notify them that they are eligible for evaluations and services. She alleged that in Washington, there is only a 29 percent compliance rate.[99]

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88 Transcript, p. 157.

89 Transcript, p. 173.

90 Transcript, p. 199.

91 Transcript, p. 200.

92 Transcript, p. 215.

93 Transcript, p. 196.

94 Transcript, p. 109.

95 Transcript, p. 230.

96 Transcript, p. 212.

97 Transcript, p. 111.

98 Transcript, p. 261.

99 Transcript, p. 262.

Andy De Los Angeles, tribal chairman, Snoqualmie Indian Tribe, said:

> There is a direct correlation between Native American children coming from homes that are provided services and those who come from multiple foster home placements who eventually end up in the juvenile justice system. Indian tribes believe that early tribal identification, tribal case plan involvement, and relative placement builds stronger moral cultural values and communities.[100]

Echoing Baer's allegation of noncompliance with Federal law, De Los Angeles charged that the juvenile justice system does not adhere to the Indian Child Welfare Act.[101]

Professor Bridges reported that the typical crime in juvenile court is shoplifting, not murder, assault, or robbery, adding, "although we have seen dramatic increases in youth violence, there are children in detention that may not need to be there because they do not represent a significant threat to the community."[102]

According to the report, *Racial Disproportionality in County Juvenile Facilities*, the percent minority among referrals to all juvenile courts in the State was stable, 30 percent in 1993 and 30 percent in 1994.[103] For this same time period, in King, Pierce, and Benton/Franklin Counties, three of the larger juvenile courts, the percentage of minority referrals decreased by 2 percent, 2 percent, and 1 percent, respectively.[104]

Prosecution

A complaint referred to the juvenile court goes directly to the prosecutor, who will determine whether the case is within the jurisdiction of the court or whether there is probable cause to believe the juvenile did commit the offense.[105] In 1990 there were 72,517 offense referrals, of which 63 percent of the offenders were white, 11 percent black, 3 percent Hispanic, 3 percent Native American, 2 percent Asian, 15 percent not reported, and approximately 1 percent each for the categories of other or unknown.[106]

Greg Hubbard noted that the prosecutor's decision on what crime to charge has a big impact on whether the case is diverted or whether it is filed and processed for juvenile court. He said, "In Kitsap County we are establishing more specific standards with regard to charging on each individual crime, the number of counts, etc. aggressively establishing some prosecution standards for charging and disposition."[107] Satterberg noted that the office of the King County prosecutor was concerned about whether there is something within prosecutorial discretion that contributes to disproportionality[108] and contracted with two sociologists from the University of Washington to study this issue.

Satterberg added, "We have an ongoing effort to review the standards by which the county prosecuting attorney files and disposes of cases. We train new deputies about those standards. Almost all 39 counties have adopted the same kind of

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100 Transcript, p. 287.

101 Transcript, pp. 288–89.

102 Transcript, p. 76.

103 George S. Bridges, Darlene Conley, Rodney L. Engen, and Kristin A. Bates, *Racial Disproportionality in County Juvenile Facilities*, Olympia, WA, July 1995 (hereafter cited as Bridges, Conley, Engen, & Bates, 1995). The report was submitted under contract to the Juvenile Rehabilitation Administration, Department of Social and Health Services, State of Washington.

104 Bridges, Conley, Engen, & Bates, 1995.

105 Ezell, p. 7.

106 Ezell, p. 7.

107 Transcript, p. 203.

108 Transcript, p. 253.

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standard"[109] and "we have an on-going juvenile court work group which uses the Bridges study as a reference point to look for ways to better level the playing field in juvenile court."[110] Professor Bridges questioned whether those standards are equally applied, noting that in another urban county outside of King 20 percent of whites and nearly 50 percent of minorities are prosecuted. He noted that there are no prosecution guidelines in that county.[111]

Research conducted by Bridges, Conley, Engen, and Bates found that in 1994, 37 percent of all youth prosecuted in the State were minorities, an increase of 2 percent from the average of 35 percent for the prior 3 years.[112] The data also demonstrated that the percent minority charged with crimes decreased 2 percent in King County, 1 percent in Pierce County, and 8 percent in Benton/Franklin Counties.[113]

Sentencing

Dick Carlson noted that the State legislature adopted a standard range sentencing format including options. Option A is commitment. Option B provides that the court can find there are reasons for not imposing the institutional sentence and maintain the youth in the community, on supervision up to a year, order detention for up to 30 days, and impose other kinds of consequences. King County continues to lead the rest of the State in the numbers of youth of color in option B sentences. Approximately 60 percent of the number of youth in these programs are minority youth who would otherwise have been committed to a State institution.[114]

Ballasiotes believed that the State needs to develop a simpler sentencing grid based on a couple of factors such as the seriousness of the crime and the criminal history of the individual.[115]

Even though it is a division of juvenile rehabilitation policy to assign youths with sentences of 16 weeks or less to group homes,[116] Sidorowicz noted that fewer minority youth were achieving minimum security status[117] in the State system.

Steve Johnston theorized that the juvenile justice system has abandoned intervention and gotten away from the principle of the juvenile court, which was to deal with the individuals, that youth were different, and massive intervention does work.[118] Satterberg would like to return to more judicial discretion for the judge to order something like continued school attendance because truancy is such an important first signal of trouble ahead. He believes the system "must attempt to grab the attention of young offenders when they first get into it and not wait until the bullets start flying before resources are applied to the problem."[119]

Bridges noted that in 1977, with the purpose of uniformity and fairness in mind,[120] the Legislature enacted presumptive[121] sentencing for juveniles, i.e., sentences to fit the crime committed by

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109 Transcript, p. 254.

110 Transcript, p. 254.

111 Transcript, p. 84. He chose not to name the county.

112 Bridges, Conley, Engen, and Bates, 1995.

113 Bridges, Conley, Engen, and Bates, 1995.

114 Transcript, p. 48.

115 Transcript, p. 276.

116 Ezell, p. 16.

117 Transcript, p. 241.

118 Transcript, p. 216.

119 Transcript, p. 256.

120 Transcript, p. 93.

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the child. He believed that this is a good model because it led to very few race differences at sentencing and, as a result, the model has almost eliminated race differences in the treatment of children at sentencing. In States with more flexible social service models of sentencing, he believes that the data demonstrate they have pronounced racial differences. One of the unintended effects of the 1977 law was to eliminate judicial discretion, which, data demonstrated, had led to pronounced racial disparities.[122]

Michael Curtis said that for every youth you see in juvenile court there is at least one adult in the child's life who is not doing the things for that child that need to be done. He suggested that by looking at the child's environment you see where the real problems in the child's life are, and added, "they are kids living in situations that many of us as adults could not survive."[123] Johnston said that the children's parents refuse to provide for many of them.[124] Ligia Farfan of I-Wa-Sil said that neither the parent nor the child is given enough information about the system and its intricacies, causing more problems for the child and the family.[125] The problems, some participants alleged, are magnified for those who do not speak or understand English. Akimoto questioned whether people within the system understand languages other than English and other cultures.[126]

James Kelly said that when you afford discretion to police, prosecutors, and judges there need to be safeguards in place because, too often, they are using social conditions and factors to make their detention decisions.[127]

In 1994, youth of color comprised 34 percent of all adjudicated youth given sentences to confinement statewide, a slight increase over the 33 percent for the prior 3-year period.[128] In King County, the percent minority sentenced to any confinement decreased from 55 percent to 50 percent.[129]

Diversion Programs

In diversion, the juvenile agrees to certain conditions in lieu of prosecution. A diversion unit is a probation counselor, any person, or entity with whom the juvenile court administrator has contracted, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements.[130] In 1990, 18,949 cases were referred to diversion, of which 67 percent were white, 14 percent minority, and 18 percent unknown.[131] Susan Waild, program manager, Conference Committee Diversion Program of King County, said that in the county last year her unit saw about 3,500 kids in diversion services.[132]

Waild stated that diversion is the legally mandated alternative to court for kids, with a very complex and finite statute specifying who is referred for diversion. She said, "Who gets to go to

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121 Transcript, p. 79.

122 Transcript, p. 80.

123 Transcript, p. 31.

124 Transcript, p. 232.

125 Transcript, p. 103.

126 Transcript, p. 110.

127 Transcript, p. 195.

128 Bridges, Conley, Engen, and Bates, 1995.

129 Bridges, Conley, Engen, and Bates, 1995.

130 Ezell, p. 9.

131 Ezell, p. 9.

132 Transcript, p. 221.

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4,802 African American (25.5 percent), 351 Native American (2.2 percent), 524 Hispanic (3.2 percent), 1,611 Asian (10.1 percent), and 423 other (2.6 percent).[145] Bridges noted an increased concentration of diversion of juvenile minority children. He believed that courts are trying to do something about the problem of disproportionality, and diversion is the process whereby children, whether black, white, or of any race, are given a second chance and not prosecuted for their minor or first-time offense. According to Bridges, hundreds of children of color are now being diverted, whereas before the 1993 study they were not.[146] Of the 15,976 juveniles referred, 6,106 were diverted, including 3,772 Caucasian (61.8 percent), 1,183 African American (19.3 percent), 72 Native American (1.2 percent), 149 Hispanic (2.4 percent), 603 Asian (9.9 percent), and, 327 other (5.3 percent).[147] In Yakima County, diversions involving minority youth rose from 48 percent to 53 percent between 1993 and 1994.[148]

Some participants questioned the commitment of the community and agreed that if the environment does not change the cycle is going to continue. Baer said, "Our own State legislature is creating an atmosphere of fear and hatred of children. I do not believe we are becoming more sensitive to the needs of children of color."[149]

Akimoto told the Advisory Committee, "I am not trying to minimize the fact that these kids commit crimes, but there are things that we can be doing in the community to eliminate that, [such as] summer and year-long employment, opening savings accounts, little things."[150] Some of the participants alleged that when youth go into the juvenile system they return to the same environment.[151] Tanner noted the child comes back to Seattle or Tacoma and nothing has changed.[152] Waild agreed, noting that "if the kid does not have a place to live and is not in school you are fighting an uphill battle."[153] Tanner added, "There are no after school programs, everything has been cut,"[154] and so "the problem with our kids is that they have nothing to do and all we concentrate on is how to punish them."[155]

Successful programs sometimes face curtailment or total elimination. Walden told the Advisory Committee that up until 1992, the Bellevue Police Department did in-house diversion and if a child went through that it was not part of the criminal record. Unfortunately, she added, that program is no longer operating.[156] Some community-based organizations attempt to fill the gap. The I-Wa-Sil program of the United Indians of All Tribes Foundation assisted 196 youth in its juvenile justice component for the period January 1

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144 Transcript, p. 81.

145 Nancy M. Campbell, acting director, King County Department of Youth Services, Seattle, letter with attachments to Thomas V. Pilla, Western Regional Office, U.S. Commission on Civil Rights, Los Angeles, CA, Oct. 8, 1996 (hereafter cited as Campbell letter).

146 Transcript, p. 82.

147 Campbell letter, Juvenile Justice System Process Review, attachment 2.

148 Bridges, Conley, Engen, and Bates, 1995.

149 Transcript, p. 264.

150 Transcript, p. 116.

151 Transcript, p. 116.

152 Transcript, p. 117.

153 Transcript, p. 231.

154 Transcript, p. 118.

155 Transcript, p. 119.

156 Transcript, p. 142.

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diversion and who can and cannot be referred for diversion is defined by statute based upon the nature of the crime committed and criminal history of the individual."[133] For the 1995–1997 biennium, Pierce County Juvenile Court projected that there would be 7,000 youth who meet the statute concerning divertable youth.[134] Waild added that there is also a middle ground where you may be sent to diversion at the discretion of the local prosecutor. In some counties the prosecutor has given this authority to the probation officer. The Advisory Committee notes that this discretion may provide opportunities for disproportionate referrals.

Waild noted that diversion is meant to be for the first time, minor offenders, i.e., thefts, shoplifts, some assaults, malicious mischief, and said, "We do not see burglaries, rapes, robberies, which are sent to court and are seen by a judge."[135] Waild remarked, "Not all the kids that get in trouble need to go before a judge; sometimes they just need to go before their neighbors and be held accountable.[136] So diversion services uses about 500 community volunteers to serve on two to four-member panels"[137] whose function is to interview the youth and parents, talk about what is going on in their lives and direct them to services.[138]

According to Waild, diversion services also now use interpreters for every youth and/or parent who does not speak English and "this is our biggest expenditure."[139] She said:

> We provide an interpreter for every youth or parent who does not speak English. Ten years ago parents would bring a friend or relative to interpret, but now we provide interpreters for every youth and/or parent who does not speak English.[140]

Judge Huggins believed diversion to be a successful program, but was not as encompassing as it could be for youth of color, and one of the barriers is language. She said, "We made some very strong recommendations for a more expansive use of the diversion process because we find that it is generally a successful process."[141] She added, "there are a lot of kids in the juvenile justice system who do not commit murder or violent crime for whom we still have to do everything that we can to try to save them, rehabilitate them, and turn them into productive citizens."[142]

Since failure to appear for diversion appointments is a significant cause of warrants being issued for arrests,[143] Dick Carlson noted that his department had reorganized its diversion project so that the staff can spend more time trying to contact and monitor youth to ensure that they show up for their diversion appointments.

Professor Bridges reported that between 1991 and 1994 an increasing number of children of color came to juvenile court and higher concentrations of children of color were arrested and referred to court.[144] For calendar year 1995, 15,976 juveniles were referred to juvenile court in King County, including 8,985 Caucasian (56.2 percent),

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133 Transcript, p. 220.

134 Stephen E. Johnston, administrator, Juvenile Court Services, Pierce County, "Application for Funds for Consolidated Contract 1995–1997 Biennium," May 18, 1995 (hereafter cited as Consolidated Contract).

135 Transcript, p. 222.

136 Transcript, p. 222.

137 Transcript, pp. 222, 223.

138 Transcript, pp. 222–23.

139 Transcript, p. 223.

140 Transcript, p. 223.

141 Transcript, p. 33.

142 Transcript, p. 36.

143 Transcript, p. 45.

through December 31, 1994.[157] Walden, of Mothers Against Police Harassment, said, "We do educational workshops for young people on their rights and responsibilities and our prescription for public safety is jobs, education plus treatment."[158] Pageler noted that the Refugee Women's Alliance offered educational seminars and workshops on law enforcement, schools, and juvenile justice.[159] Tanner's organization attempts to assist in decreasing the recidivism rate by providing gainful employment opportunities and job retention and encouraging acceptance of child support responsibilities.[160] Walden added, "We believe with more information our children can make more intelligent decisions."[161]

Walden pointed out that there are some programs that are making a difference in King County, such as "Sisters in Common for female offenders, which attempts to provide some self-esteem, to encourage them to be attached to their community, to help them develop conflict resolution skills and to teach job readiness skills."[162] Pageler noted that in about 1993, the Seattle Police Department's south precinct began cooperating with the Refugee Women's Alliance to establish informational programs on policing, schools, and juvenile justice for new immigrant parents.[163] According to Pageler, "police reported that the recidivism rate for the kids whose parents had participated was astonishingly low and their brothers and sisters had not offended either."[164]

There was general agreement that diversion is successful in lowering disproportionality,[165] but sometimes there are problems. Waild told the Advisory Committee, "We were having a difficult time a while ago locating and finding kids on the Shute Indian Reservation, so we recruited a member of that tribe to help us locate those kids and respond to the diversion notice."[166] The project description for Reaching Back/Giving Back noted that one of its target populations would be "African-American youth presented for first appearance or subsequent detention review hearings who are at risk of continued detention due to unstable living situations and concern that they fail to appear for future court hearings."[167]

Waild noted that her unit is working on a "trackers pilot project" with a staff person who meets with people and gets them into diversion. At the time of the Advisory Committee's forum it was too early to assess the impact of this project.[168]

Dan Satterberg noted that the community-generated program, Reaching Back/Giving Back, is the detention alternative for minority youth.[169] The Advisory Committee noted the June 1995 implementation of this program, and although

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157 United Indians of All Tribes Foundation, I-Wa-Sil Youth Program, Statistics, 01/01/94 through 12/31/94, Seattle, WA, Dec. 31, 1994 (hereafter cited as I-Wa-Sil program statistics).

158 Transcript, p. 141.

159 Transcript, pp. 158–59.

160 Transcript, pp. 112, 113.

161 Transcript, p. 148.

162 Transcript, p. 147.

163 Transcript, p. 159.

164 Transcript, p. 160.

165 Transcript, p. 148.

166 Transcript, p. 224.

167 King County, Department of Human Services, Juvenile Justice Initiative, "Reaching Back-Giving Back: Detention Alternatives for African American Youth," project description, May 18, 1995 (hereafter cited as Reaching Back-Giving Back project description).

168 Transcript, p. 225.

encouraged by its development, questioned why the county did not have similar diversion programs in place before. Satterberg said, "We need to do a better job in this county with access to diversion which is the one chance that a young offender has to avoid the stigma of being a convicted offender." He added, "Too many people do not avail themselves of this because there is not enough structure in their home to recognize the importance of that chance or to keep court appointments or a schedule so that you know when to meet with the juvenile court conference committee. We need to provide better access to all people who are eligible for diversion."[170]

Baer believed that the continuum of care is not even being used anymore. She added that youth are detained because their parents are not there, and they are not in school. She pointed out that King County was going to start a program that would provide that link as an alternative to detention but it does not exist yet, and alleged that "the continuum of care is not being used for pre-adjudicated kids [and] electronic bracelets are being used for kids that are already sentenced."[171]

Glenda Tanner suggested that diversion has a monetary benefit to the community, noting that for each participant who does not return to detention approximately $22,000 of tax dollars are saved annually.[172] However, she believes community-based resources and programs need to be in place, adding, "when that young man or young lady comes back to the community, if we do not have something in place within the first 60 days, we normally lose them."[173] Johnston agreed, noting that "everything that has been gained, i.e., reading level increases, extinguishes within a week when we put the kid back out of detention."[174]

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169 Transcript, p. 254.

170 Transcript, p. 255.

171 Transcript, p. 258.

172 Transcript, p. 112.

173 Transcript, p. 121.

174 Transcript, p. 218.

III. Progress

Statewide Efforts

The passage of the Engrossed Substitute House Bill[1] (House Bill 1966) in 1993, commonly referred to as the Racial Disparity Act, and the Youth Violence Prevention Act (House Bill 2319) in 1994 by the Washington State Legislature provided impetus and direction for statewide efforts on disproportionality. Professor Bridges said, "Since 1993 a great amount of work has been done, some more effective than others. It is not a simple problem, but knowledge is limited on what works." He reported that in talking with people in other States, Washington was far above and further along than almost any other State in the country.[2]

James Kelly reported that the Racial Disparity Act was designed to remedy problems of racial and ethnic disproportionality in the administration of juvenile justice. According to Kelly, it has provisions that look at different areas including improvements in the system for the collection and analysis of the information on those prosecuted and adjudicated in juvenile courts.[3]

Dick Carlson, operations manager, King County Department of Youth Services (DYS), told the Advisory Committee that in 1994 the State Legislature mandated that every regional law, safety, and justice committee in the State create a subcommittee on disproportionality and that they report annually in September on the progress in addressing the issue.[4] Carlson stated that the disproportionality committee is charged with the tasks of monitoring and recording juvenile disposition standards, assessing the effectiveness and cultural relevance of rehabilitative services that are offered by county organizations and corrections facilities, offering rehabilitative services in conjunction with diversion from the juvenile court system, and parole and probation services. In addition, a requirement was added that DYS review citizens complaints regarding bias on disproportionality in the system.[5]

Kelly pointed out that the Youth Violence Prevention Act of 1994 also mandated that prosecutors develop prosecutorial standards.[6] According to Sidorowicz, that 1994 act created a separate organization within the Juvenile Rehabilitation Administration (JRA) of DSHS solely for juvenile justice issues.[7] Several years ago, he added, the department began a diversity initiative to improve responsiveness to minority populations. JRA's efforts to address disproportionality occur within the context of this initiative.[8] JRA

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1 An Engrossed Substitute House Bill reflects all amendments made to it in the house of the bill's origin. Engrossed Substitute House Bill 1966 was called the Implementing Juvenile Justice Racial Disparity Study Recommendations and commonly referred to as the Racial Disparity Act.

2 Unless otherwise noted, all quotes and statements in this report are from the proceedings transcript, which is on file in the Commission's Western Regional Office in Los Angeles, CA. United States Commission on Civil Rights, Washington Advisory Committee, Transcript of Proceedings, Seattle, WA, June 9, 1995 (hereafter cited as Transcript). Transcript, p. 72.

3 Transcript, p. 183.

4 Transcript, p. 49.

5 Transcript, p. 39.

6 Transcript, pp. 184–85.

7 Transcript, p. 234.

8 Transcript, p. 235.

manages the oversight committee and has the responsibility on an ongoing basis to report back to the legislature on the efforts of local communities to address disproportionality.[9] JRA tries to identify what kind of programs work best, help communities disseminate information, and through its contracting process try to make sure the communities make[10] the best efforts they can using consolidated juvenile service funds to address disproportionality.[11]

Carlson also noted that the court in King County added a judge and a half to cut down on the amount of time from the filing of an initial charge until disposition of the case. Officials reasoned that if it takes less time to move through court, the period of detention will be shortened. In addition, by reducing the number of court hearings, you reduce the opportunity for a youth to fail to appear for court, thus reducing the number of warrants[12] (and probable detention).

Professor Bridges stated that every biennium the State gives the counties approximately $20 million to develop programs that address the problems of juvenile crime and at-risk youth. The allegation from community members that financial resources for programs have been cut prompted Bridges to question whether or not this is enough, but cautioned that it was not his position to determine that.[13]

Diversity

Kelly noted that the Racial Disparity Act provided for extensive and routine diversity training for law enforcement and juvenile justice officials.[14] Professor Bridges noted that 28 of the State's 39 counties are employing some form of diversity training, adding:

> In some eastern counties like Yakima and Franklin, there is an increasingly large Hispanic population, and virtually no or very few court staff that speak Spanish; thus there is a communication problem that can create significant interaction difficulties for court officials. Diversity training is a beginning step.[15]

Curtis noted that the cultural diversity curriculum is only offered to judicial branch employees for whom the office of the court administrator provides education through the board for trial court education. Cultural diversity training for executive branch employees or law enforcement goes through the criminal justice training commission or through the various agencies.[16]

Carlson said:

> We have run all probation staff through sensitivity and cultural diversity training, held a workshop in 1994 on working with Southeast Asian client populations and Spanish immersion training. The entire department, 300 staff, went through a cultural change process, a 3-day workshop for everyone, and we have ongoing diversity training.[17]

Chief Crawford of the Kent Police Department said that his department has a diversity training program that includes an 8-hour training segment every Friday and diversity training every year. He noted that a problem that the police have today is trying to get the mission of the chief down to the working officers and have them interpret it the same way as the chief. He believed that a

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9 Transcript, p. 237.

10 Transcript, p. 237.

11 Transcript, p. 238.

12 Transcript, p. 43.

13 Transcript, pp. 77–78.

14 Transcript, p. 183.

15 Transcript, p. 73.

16 Transcript, p. 22.

17 Transcript, p. 44.

smaller police department like Kent's had an advantage in this regard.[18]

Delmore added, "We need diversity training in Kitsap County and we are doing something about it."[19] Hubbard added that Kitsap County has dispute resolution training and a 2-day training session that will include diversity training for juvenile probation staff, law enforcement, members of the community, and the prosecuting attorneys office. According to Hubbard, a substantial portion of time will be afforded to cultural diversity training.[20]

The Advisory Committee asked if any thought had been given to making cultural diversity training a continuing education requirement. Judge Huggins noted that the working group made a recommendation to the bar that any continuing legal education program include a section on cultural diversity.[21] The Advisory Committee also wondered if participation in diversity training was included in performance evaluations. Carlson noted that in his agency it was not included, but added:

> There are standing focus groups in most of the major sections of the department and the whole issue of diversity and cultural awareness is a big focus. We intend to institutionalize it. The personnel section is revising the performance appraisals forms this year [1995].[22]

According to Nancy M. Campbell, acting director, King County Department of Youth Services, as of October 8, 1996, the personnel performance appraisal "form has not been revised" to "include notations about cultural diversity training." She added that cultural diversity training, along with all other training staff receive in their official capacities, is tracked by the department's training office.[23]

Some participants were disappointed that only 19 of the 39 counties have informational brochures in languages other than English. Akimoto found it beyond comprehension that there are no bilingual, Spanish-speaking probation officers and believed that if you focused on Vietnamese, Cambodian, Samoan, and Filipino, you would have the bulk of the Asian language needs.[24] In fairness, some of the counties lack diversity in the population; however, according to Bridges, there are counties with large Hispanic populations and no informational brochures in Spanish. He noted that the administrator of the courts is attempting to resolve this.[25]

Carlson reported that the department debated how best to communicate all of its processes to the people subject to them. He added:

> We found one interesting thing in terms of notice to people, particularly those who are non-English speaking. The letters advising kids that a court date has been set were mailed to the kid. The kid speaks English, intercepts the letter, reads it, and fails to tell the parents. The parents do not know there is a hearing and the kid fails to show.[26] We changed the process and now we send separate letters to the parents and to the kid. The letters to the parents include translation notes[27] [which] are a flag that say, there is material here you need to be aware of; please contact us or find someone to translate this for you.[28]

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18 Transcript, p. 172.

19 Transcript, p. 206.

20 Transcript, pp. 203–04.

21 Transcript, p. 23.

22 Transcript, p. 61.

23 Campbell letter.

24 Transcript, p. 120.

25 Transcript, p. 74.

26 Transcript, p. 46.

27 Transcript, p. 46.

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He said, "In the past year, 1994-95, we have translated most of our initial information into six primary languages, reorganized our diversion project so that staff in that program can spend more time trying to contact, monitor, and ensure that kids show up for their appointments."[29] He added, "We have contracted with a variety of interpreters and we now send letters to the kids and to the parents and the letters to the parents include translation notes."[30]

Professor Bridges said that about 19 counties are routinely collecting and analyzing information on the problems of children of color in an attempt to figure out where the problem lies and what can be done about it. Carlson noted that his department is using light duty assignment staff to track warrants and to track cases where youth fail to appear before a warrant is issued. He believed this would have a significant impact on disproportionality.[31]

Akimoto believed that cultural issues need to be looked at and questioned whether there are people in the system, i.e., police officers, social workers, screeners at detention centers, probation officers, and court personnel, who understand language and culture.[32] The issues of language, culture, and understanding apply to Asian Americans, Pacific Islanders, Native Americans, Spanish-speaking, and African American youngsters.[33] Tanner agreed, saying that in order to make a difference, we need to place people of color in key positions, people who know how to relate to the youth coming into the juvenile system.[34] She added that the large majority of the staff at a local detention center are from communities such as Yelm, Graham, Roy, Yakima, and Olympia, and these are not people used to being around African American kids.[35] Akimoto said that the experience or ability to work with certain groups could be a legitimate job requirement.[36] Johnston stated that Pierce County hires a diverse, competent staff with 35 percent of professional and nonprofessional staff in probation and detention currently who are folks of color.[37]

Sidorowicz stated that over the last couple of years, the State has made great strides in increasing its hiring of minority staff beyond that reflected in the general population.[38]

Professor Bridges added that 16 of the counties have a staff person looking at the causes of disproportionality and how they might be remedied, noting, "staff diversity, the extent to which courts are increasingly making their staff more racially diverse is an important step, but only 7 of the 39 counties are doing that [since] very few counties are in a hiring mode because their budgets simply do not permit that."[39] He believed that Pierce, King, and Yakima Counties have made the most progress in diversifying their staffs.[40]

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28 Transcript, p. 47.

29 Transcript, p. 45.

30 Transcript, p. 46.

31 Transcript, p. 47.

32 Transcript, p. 110.

33 Transcript, p. 111.

34 Transcript, p. 114.

35 Transcript, p. 115.

36 Transcript, p. 119.

37 Transcript, p. 215.

38 Transcript, p. 245.

39 Transcript, p. 75.

40 Transcript, p. 75.

Some participants applauded the effort to diversify staff and noted their involvement in these efforts. Akimoto said that he was part of an Asian Task Force on Youth working with the Seattle Police Department to recruit Asians to work in the police department,[41] and Walden noted her participation on the Governor's juvenile issues task force.[42] Professor Bridges noted that most juvenile courts rely on volunteers and 12 counties have developed programs to sensitize their volunteers to diversity issues or to recruit a diverse set of volunteers. Some courts are developing new diagnostic procedures for screening children for diversion and other programs. He cautioned that effects of all these efforts will not be seen for a number of years.[43]

James Kelly reported that the State and courts have made tremendous progress toward addressing disproportionality.[44] He said that every county seems to have diversity training for staff and hiring in regard to making sure that there is representation within the juvenile court systems. He pointed out that remaining areas of concern include a focus on policy regarding who is detained, a greater emphasis on alternatives to detention and prosecutorial standards, data collection mechanisms, and ensuring that the system finds ways of becoming friendlier to parents and youth.[45]

Working Groups

Judge Huggins of the King County Superior Court told the Advisory Committee that the disproportionality working group she cochaired began in December 1993 and held hearings in Seattle, Tacoma, Yakima, and Echo Glen, the children's institution.[46] She reported the themes heard at those hearings, which included: concerns with parental empowerment and the reinvolvement of the family, the need for interpreter services, the public defender versus the private attorney or quality of representation, issues of work force diversity, questions about law enforcement practices, questions on the juvenile justice system and the State's focus on building criminal history, and the need for transitional programs for youth released from secure confinement.[47]

Huggins said that youth identified the need for earlier intervention, the lack of work force diversity (they go to court and everybody in the courtroom is Caucasian), labeling, police harassment, and a perceived inconsistency in sentencing, e.g., "my codefendant did not get nearly the severe sentence that I did."[48]

Huggins reported a series of recommendations that emanated from the working group. A major recommendation was that prosecutors adopt prosecutorial guidelines. Prosecuting attorneys throughout the State adopted guidelines developed by the Washington Association of Prosecuting Attorneys, but an effort in 1995 to codify those guidelines in proposed juvenile justice reform legislation did not pass.[49] Another recommendation was that parents be involved in the juvenile offender process through a limited parental privilege. This was also in the legislation that did not pass. Huggins said:

> We suggested that the model pattern form for a detention order include space for written findings supporting

41 Transcript, p. 111.

42 Transcript, p. 138.

43 Transcript, p. 77.

44 Transcript, p. 186.

45 Transcript, p. 186.

46 Transcript, p. 13.

47 Transcript, p. 14.

48 Transcript, p. 15.

49 Transcript, p. 16.

the reasons why a judge has held a kid in detention.[50] This addressed a finding of Dr. Bridges that kids held in detention received more severe treatment than the kids who are not held. The pattern forms committee did take that recommendation and has revised the model pattern form order on detention.[51]

Ligia Farfan of I-Wa-Sil noted that the disproportionality working groups are a step in the right direction. She said that some of the recommendations have been put into practice within some counties, but it is a slow process and it is going to take time. She added, "I believe we are just becoming aware as a community about how big and how much of a problem this is. Disproportionality did not happen overnight."[52]

A lot of the working group recommendations were aimed at the local level. According to Huggins, local juvenile justice advisory committees were created during the 1994 legislative session with the role of advising the law and justice planning councils of each county on the issues of racial disproportionality in the juvenile justice system.[53] The working group also developed an informational brochure about the juvenile justice offender process in lay language, and it is being translated into various languages to be distributed to the juvenile courts throughout the State.[54] Curtis said that in 1995 the legislature provided funding for courts to improve information systems.[55] He added:

> The Board for Trial Court Education has adopted the policy that whenever anybody makes a presentation or provides training to members of the judiciary or support staff the issue of cultural and ethnic diversity should be integrated.[56]

The impact of these recommendations had not been studied at the time of the Advisory committee's open forum. Michael Curtis said that judging impact at the local level is hard to say.[57]

Community-Based Programs

Reaching Back/Giving Back

A major community-generated program to combat disproportionality is the Reaching Back/Giving Back program developed in King County. Sadikifu Akina James noted that King County committed $350,000 to an alternatives to detention project for African American youth. Akina James told the Advisory Committee "we came up with the idea of looking at community-based alternatives to detention for African American youth, the population with the highest disproportionate detention rate, and have the community take responsibility."[58] She added that a contract was issued to the Black Child Development Institute of Seattle to conduct an African American strategic family community empowerment campaign with the goal of promoting the principles and values embraced by accomplished African Americans.[59] This group held 20 caucus meetings throughout King County that involved about 175 accomplished African Americans and 100 youth.[60] The result was a report[61] and 80 African Americans committed to be involved in

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50 Transcript, p. 17.

51 Transcript, p. 18.

52 Transcript, p. 124.

53 Transcript, p. 18.

54 Transcript, p. 19.

55 Transcript, pp. 19–20.

56 Transcript, p. 20.

57 Transcript, p. 32.

58 Transcript, p. 188.

59 Transcript, p. 189.

some way in alternatives to detention for African American youth.[62] Akina James added:

> The core of the project is that we will try within the first 72 hours of a youth being detained to match them with a mentor or a community-based organization that will have responsibility for their oversight and for them to be released into the community.[63]

A program plan was approved in June 1995 to begin this mentoring project.[64] Echoing Carlson's concern about the number of warrants issued for failure to appear, a target population of the Reaching Back/Giving Back program will be "African American youth for whom a bench warrant for Failure-To-Appear has been recently issued, or where public defenders and/or probation counselor consider it likely the youth will fail to appear for the next scheduled court appearance without this program."[65] The Reaching Back/Giving Back project is brand new,[66] and the Advisory Committee believes the program to be a positive and constructive step in dealing with disproportionality.

Dick Carlson added that Reaching Back/Giving Back is a major community mobilization effort of the county's department of human services to provide an alternative to detention, primarily at this point for African American youth through the use of a corps of mentors and volunteers[67] operating in conjunction with DYS to monitor, support, and assure that the kids show up for their court hearings and monitor them while they are in the community.[68]

Professor Bridges pointed out that six counties are trying to find different ways of dealing with children and saw King County's Reaching Back/Giving Back program as a model that is being adopted in varying degrees across the State as a way of finding alternatives to keep children of color out of detention facilities.[69]

Other Approaches

The impact of the schools was an often-heard theme. Noting that expulsion, truancy, and delinquency go hand in hand, Baer described Teamchild, a grant written by Evergreen Legal Services to take a holistic approach to juvenile justice by providing a legal services attorney who is experienced in both educational and public entitlement laws.[70] At the time of the Advisory Committee's forum, Teamchild was not operational; however, it received funding and began July 14, 1995,[71] approximately 1 month after the Advisory Committee's forum. The evaluation of the first year found that "Teamchild achieved impressive results" by obtaining reinstatement in

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60 Transcript, p. 190.

61 Black Child Development Institute, Inc., *The African American Strategic Family-Community Empowerment Campaign Report*, Seattle, WA, July 1994.

62 Transcript, p. 191.

63 Transcript, p. 193.

64 Transcript, p. 193.

65 Reaching Back-Giving Back project description.

66 Transcript, p. 194.

67 Transcript, p. 41.

68 Transcript, p. 42.

69 Transcript, pp. 75–76.

70 Transcript, p. 261. "The theory behind the Teamchild program design is: the provision of civil legal advocacy services to delinquent youth, teamed with criminal representation by the public defender, will result in enhanced educational services, mental health services, and/or social services, as well as successful community sentences." Evaluation.

71 Transcript, p. 263.

school for 90.5 percent of the clients whose cases addressed school issues.[72]

Elizabeth M. Calvin, project director, Teamchild wrote:

> We believe Teamchild's work fills a gap in the juvenile justice system by addressing issues underlying juvenile delinquency. Teamchild recently opened a second office on the east side of Washington State in Spokane.[73]

Some participants noted that communities have gotten away from programs that have worked in the past. Chief Crawford said that in the south end there is Project Lighthouse, a good old-fashioned drop-in center that tries to instill some values, provide counseling and tutoring, and provide some role models.[74] He added that the South County Violence Task Force has instituted a mobile recreational van that goes around and works with the kids rather than being in a stationary spot.[75]

Johnston believed that the system could do "a heck of a lot more to help youth not reoffend"[76] through intervention. Sidorowicz said that the DSHS supports early intervention with youth and families, and the legislature has made more investments in that area over the last few years.[77] Baer said that she did not see DSHS doing any kind of preventive services and noted that if anything, money has been slashed and programs cut.[78]

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72 Mark Ezell, Ph.D., *Teamchild. Evaluation of the First Year*. Seattle, WA, 1996 (hereafter cited as Evaluation).

73 Elizabeth M. Calvin, project director, Teamchild, Seattle, WA, letter to Thomas V. Pilla, Western Regional Office, U.S. Commission on Civil Rights, Oct. 7, 1996 (hereafter cited as Calvin letter).

74 Transcript, pp. 167–68.

75 Transcript, p. 170.

76 Transcript, p. 229.

77 Transcript, p. 248.

78 Transcript, p. 265.

IV. Remaining Problems and Challenges

Although participants noted the complexities involved in dealing with the issue and were encouraged by the efforts to decrease disproportionality in the juvenile justice system, many saw remaining areas that need to be addressed.

Judge Huggings and Michael Curtis alleged the lack of adequate parenting and the child's overall environment were contributing factors, and both believed that some of these youth were living in situations that many adults could not survive.[1] Tanner added:

> The problem of youth justice is not just an economic problem; it goes across the board. It is not just a mother on welfare. We have kids in our program now whose fathers are engineers at Boeing or the mother is a lawyer—it does not matter because the bottom line is the kids are not getting the attention that they need.[2] The problem with our kids is that they have nothing to do. All we concentrate on is how to punish them, and I cannot understand how we, as a community of supposedly intelligent people can abandon our youth.[3]

Ligia Farfan also viewed it as a statewide concern noting, "budgets are being cut left and right, and social services are not a priority on anybody's list. However, it is forcing community-based organizations to work together, and that is a resource that has not been tapped into in the past."[4]

Failure to appear for court hearings and diversion meetings remains a concern. Carlson noted that at the time of the Advisory Committee's forum 50 percent of the youth who are presented and detained at the DYS facility have a warrant associated with their presentation. The warrant requires their detention even if the offense did not require it, and those warrants are primarily related to failure to appear.[5]

Ligia Farfan reported that in Seattle, the Department of Youth Services has a constant number of Latinos who speak little English coming through the system, yet at the time of the Advisory Committee's forum she alleged, there was not one bilingual counselor for these youths.[6] She noted:

> It is Washington State law that for court proceedings, if the defendant does not speak English, that there be a court-certified interpreter[7] for that young person. This law has been in place for the last 4 to 5 years. So when they go in front of a judge they have somebody there; however, the process is more than just going in front of a judge.[8] You need to be able to interview the youth and their family; you need to interview the youth within detention, explain the rules, let them know what is happening in terms of their case. The probation

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1 Transcript, p. 31. Unless otherwise noted, all quotes and statements in this report are from the proceedings transcript, which is on file in the Commission's Western Regional Office in Los Angeles, CA. United States Commission on Civil Rights, Washington Advisory Committee, Transcript of Proceedings, Seattle, WA, June 9, 1995 (hereafter cited as Transcript).

2 Transcript, p. 118.

3 Transcript, p. 119.

4 Transcript, p. 128.

5 Transcript, p. 42.

6 Transcript, p. 104.

7 Transcript, p. 129.

8 Transcript, p. 130.

counselor will use another youth who is bilingual during the interviewing. They will not pay for an interpreter.[9] There is, I believe, one juvenile probation officer that speaks Spanish and English and he is the one who is called in to do the interpretation. However, if he is not there that day those young people will not receive the services they need.[10]

Farfan and others believe the system needs to hire more bilingual staff in operation services and as correction officers and provide some sort of interpreter bank where people can be called when interpreter services are needed because, they allege, there is nothing in DYS like that now.[11]

Nancy M. Campbell wrote that the King County Department of Youth Services does "not have information on the number of bilingual staff" but does have "information on the ethnic/gender composition of staff." In 1995 the King County Department of Youth Services had 337 total staff including 90 white males (26.71 percent), 99 white females (29.83 percent), 62 black males (18.40 percent), 44 black females (13.06 percent), 6 Hispanic males (1.78 percent), 5 Hispanic females (1.48 percent), 16 Asian males 4.75 percent), 12 Asian females (3.56 percent), and 3 Native American males (.89 percent).[12]

Waild and Johnston noted that the group homes have been systematically eliminated by the State due to the budget,[13] and there are currently only 130 beds statewide. They alleged that State law changed, and the courts lost their ability to place youth in group homes so the only ones that place now are Department of Social Services and Juvenile Rehabilitation Administration. Now, they added, the courts supposedly deal with the juvenile offender and the Department of Social and Health Services deals with the child who is dependent.[14]

Sidorowicz pointed out that a couple of years ago JRA found that minority youth were not getting into the group homes and community programs in the[15] same percentage that they are represented in the institutions. He said:

> In Children and Family Services, we undertook a strategy to recontract all our group homes in an effort to get more minority providers for the high number of minority youth in the foster care system.[16] We put out proposals for group homes with an emphasis on minority youth and this has been a positive program. We measured participation in programs and we have gotten better at gaining access for youth of color into the programs.[17]

Johnston said, "although we have neutral detention standards,[18] we have abandoned intervention as a strategy, lowered the age of jurisdiction, and enhanced punishments for certain sorts of crime." In his opinion, "massive intervention does work and [communities] have gotten away from that."[19]

Sidorowicz believed that the State needs to provide better services to youth before they are committed and said, "our goal is to work with the counties to disseminate best practices, identify

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9 Transcript, p. 130.

10 Transcript, p. 131.

11 Transcript, p. 132.

12 Campbell letter. 1995 Ethnic/Gender Composition, Department of Youth Services, attachment.

13 Transcript, p. 226.

14 Transcript, p. 227.

15 Transcript, p. 241.

16 Transcript, p. 249.

17 Transcript, p. 242.

18 Transcript, p. 215.

19 Transcript, p. 216.

what works and try to cooperate with them and use the state's resources to address this issue. [Currently] we are not satisfied with access to services."[20]

Baer said, "I see no progress in the way children of color are treated in the juvenile justice system.[21] For example, JRA is being sued for excessive use of pepper spray and illegal use of pepper spray on kids in [their] Green Hill [facility]."[22]

Sidorowicz asked if there is prevention and if it works for minority populations. He believed that to be the challenge and suggested that the State was engaged in meeting that.[23] Not everyone agreed that the State was stepping up to the challenge. Baer said that children are salvageable and they do not get the way they are on their own. She told the Advisory Committee, "I do not see that DSHS is doing any kind of preventive services." "If anything," she alleged, "money has been slashed, programs have been cut,[24] and treatment facilities do not exist."[25]

Baer alleged that the least trained people are working with the most severely disturbed kids. She asked, "where is the progress,"[26] noting that the Bridges study identified exactly where the disproportionality occurs in the system, specifically with the police. She alleged, "I have not seen any change[27] because children of color are detained more than other children before their case is resolved and that has not changed."[28] Baer said she did not believe that "we are becoming more sensitive to the needs of children of color."[29]

Professor Bridges noted that a major factor that will shape attitudes about minorities is demographic change and added, "our State like many other States is undergoing demographic upheaval and within the next 30 years, whites will be the racial and ethnic minorities in the State."[30]

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20 Transcript, p. 246.

21 Transcript, p. 257.

22 Transcript, p. 260.

23 Transcript, p. 250.

24 Transcript, p. 265.

25 Transcript, p. 265.

26 Transcript, p. 259.

27 Transcript, p. 260.

28 Transcript, p. 260.

29 Transcript, p. 264.

30 Transcript, p. 79.

V. Summary and Conclusions

This report is by no means an exhaustive view of disproportionality in the juvenile justice system. It simply reports on the status of efforts to deal with the problem once it had been identified by various community representatives, legislators, and officials of the juvenile justice system in the State of Washington. Participants at the Advisory Committee's forum reported on a myriad of official and unofficial efforts to deal with disproportionality. The success rate of these efforts needs to be analyzed, and until such an analysis is conducted the impact, although apparently constructive, remains speculative.

Although community concerns about the overrepresentation of minorities in the juvenile justice system had been ongoing, the Advisory Committee recognizes the response of the State Legislature, which passed two major pieces of legislation to deal with disproportionality. The legislation admitted awareness of the problem and set in motion governmental and community response to constructively impact this aspect of the juvenile justice system. The old adage "better late than never" seems to apply to this legislative response.

The specific reactions of the State's counties appears to be diverse, with some providing model programs and others moving more cautiously to develop projects and plans. King County's Reaching Back/Giving Back project, generated by the planning, input, and energy of the African American community, is the bellwether program and no doubt its progress will be studied by others. The need for diversity within the system has been recognized by the majority of the State's counties. Whether recognition has given rise to increased recruitment and hiring of law enforcement personnel, judicial system officials, and correctional staff has not been determined and remains for future study.

The Advisory Committee believes that the efforts that have been undertaken in Washington should prove of value to other jurisdictions who are facing similar allegations of disproportionality. It is hoped that this document will increase the awareness of the concern and provide some alternative options for consideration within those jurisdictions. The Advisory Committee is hopeful that juvenile justice practitioners in the State of Washington will continue to pursue efforts to ensure that all juveniles are afforded equal protection of the law. To determine if this goal is being met, the Advisory Committee plans to monitor the various efforts to deal with disproportionality and programs for at-risk youth.